Interesting Argument on the Sunday Liquor Law.

Progress in the Anti-Rapid Transit Suits.

WHISKEY INDICTMENTS.

ating under the meaning of the prohibitory stat-and whether its sale on Sunday is in violation of law, has been submitted for judicial decision to e Donohue, in Supreme Court, Chambers, and, of Judge Donohue, in Supreme Court, Chambers, and, of sourse, the answer to the question will be looked for rith widespread interest. Some idea of the extent and drift of this interest was shown by the large arowd which througed the court room yesterday in the hearing upon the writ of habeas corpus and certiorari granted in the case of Ferdinand Jungens, and certiorar granted in the case of Ferdinand Jungens, committed by a police magistrate on a charge of violating the Sunday law by selling lager beer, the policeman making the arrest having set forth in his affidavit that lager beer is intoxicating. Ex-Judge Freedman appeared for the prisoner, and Assistant District Attorney Rollins conducted the case for the prescention. Ex-Judge Freedman, in opening the case, said that the concession of the District Attorney in the second distance of Justin Schwab, who was arrested more of Justin Schwab who was arrested to the committed of the control of Justin Schwab who was arrested to the control of the control of Justin Schwab who was arrested to the control of the control of Justin Schwab who was arrested to the control of the control of Justin Schwab who was arrested to the control of the control of the control of Justin Schwab who was arrested to the control of the

concession of the District Attorney in the second discharge of Justin Schwab, who was arrested upon a similar enarge, necessarily leads to the third discharge in the present case, inasmuch as the District Attorney admitted that it must be affirmatively proven that lager beer is intoxicating. The mere allegation that lager beer is intoxicating. The mere allegation that lager beer is intoxicating, he insisted, is nothing more than a conclusion in the mind of the witness, without any facts to sustain it. If the burden of proof is on the prosecution it means legal proof. If the witness had sworn that the properties of lager beer were intoxicating to his own knowledge it would have been primalacie evidence; but nothing of the kind appears, and consequently a mere averment cannot take the place of proof. The remaining question to be discussed is as to whether ale and beer, and consequently lager beer, is included in or excluded from the prohibition contained in the Sunday diause. This question is one of legislative interest. Selling liquor on Sunday was not an oftence of crime at common law and was only punishable as a nuisance. Proceeding to a consideration of the statutes it is plain, that their intent must appear from the language used. There is certainly nothing in the Sunday clause or the statute which indicates that the Legislature meant to place the sale of lager beer or, indeed, any beer upon the same locting as that of intoxicating liquors; but the police seem to think that the sale of inger beer is just as bad as the sale of wines and liquors. The statute in this respect being ambiguous such ambiguity must be constrained in favor of the party who is to be affected by it. The statute as amended in 1870, providing for the punishment of effenders under the Sunday law, leit out the words "lager beer." This omission was not accidental. He went on to cite the different statutes, and, commenting upon them at large, claimed to have proved that the

FIGHT AGAINST BAPID TRANSIT. A pleasantly appreciable hearing was made in the further examination yesterday, before Judge Sedgwick, holding Special Term of the Superior Court, of witn the injunction case brought by the Sixth Ave-lroad against the Gilbert Elevated Railway Comeny. Twenty-two more witnesses were examined on behalf of the Sixth Avenue road, after which the Maintiffs rested. Mr. George P. Lowrey will open the case this morning for the Gilbert Elevated Railway Company, atter which will begin the examination of witnesses for the defendants, which will doubtless occupy several days. The testimony taken yesterday was mainly a repetition of that previously given, being a recital of secidents from horses running away hrough being frightened by the trains on the Greenwich Street Elevated Railroad, and turther dealis about the inconveniences resulting from tar implies. Among the witnesses was James L. Robinon, a horse doctor, who explained what would be the effects upon the nervous systems of horses employed in the Sixth avenue road in case an elevated road was constructed over its track in the manner proposed. He cave it as his opinion that the horses would be good or nothing. A leature of the day was the development. iffects upon the nervous systems of horses employed in the Sixth avenue road in case an elevated road was ionstructed over its track in the manner proposed. He tave it as his opinion that the horses would be good or nothing. A leature of the day was the development of the fact that civil engineers are as likely to disagree as doctors. James H. Wilson, for instance, testified that 100,000,000 passengers could be carried yearly on the Gilbert Elevated Ruilroad; that this could be done at a minimum speed of twenty-five miles an hour and with sixteen stops between the Rattery and the proposed upper termsus, and that all this could be done with an engine weighing from eight to ben tons. Mr. Theodore Weston, on the contrary gave t as his opinion that this could not be done with an engine weighing less than thirty tons.

In the suit of the Ninth Avenue Railroad Company gainat the Greenwich Elevated Railroad Company, being tried before Judge Vas Hoesen at Special Ferm of the Court of Common Plens, sven more witnesses were examined yesterday, making eighty-lour witnesses thus far cilled for the pisintiffs. Although the same line of testimony is yet being gone over the piantiffs show up indication of resting. It looks now, in fact, as though the Sixth avenue suit would be finished first.

Assistant United States Attorney Foster was notified pesterday by Mr. E. T. Wood that it is proposed to test the sufficiency of the Grand Jury which found the recent "crooked whiskey" indictments by plea in statement to the indictment against P. H. Suska. The points relied upon will be the same that were suggested in the challenge to the array of Grand Jurors which has been withoursen. General Tracy will be associated with Mr. Wood, and probably other counsel of the parties indicted, making this a test case. It is probable that General Foster will demur to the plea, and that argument will be had before Jodgo Benedict on Tuesday next.

SUMMARY OF LAW CASES. Suits have been begun in the United States District fourt against some thirty defendants, to recover balmoss of duties claimed by the government. It is announced that the suits will be brought to speedy trial. A writ of habeas corpus was yesterday granted by udge Donohue in the case of Carlos Sals, charged with

e Donohue in the case of Carlon Sala, charged with citing a little girl named Kate Vienot from this city mmoral purposes. Sala was arrested in Newark, The writ was made returnable to-day. the suit brought against the city by Captain ell for damages for loss of services by his wife, on ant of her breaking a leg while going into Wash-in Market, which was tried before Judge Sanot the Superior Court, a verdict was rendered yearly for the city.

DECISIONS.

Brewster vs. Oatley. - What is wanted? Wilkinson vs. Prontice. - Grunted on her

gher vs. Blankman and Wallack vs. Daly.—Mo-tranted. Memorandums.

—Orders granted.

rtin vs. Mackie. —Denied.
the matter of Soot; Daly vs. Jacot; Bell vs. Kierthe matter of Soot; Daly vs. Jacot; Bell vs. KierChard va. Ortel; in the matter of Calhun; Chanda Chandler; in the matter of Isham; Taylor vs.
ard; Von Elbert vs. Pitzpatrick et at. Nos. 1 and
tto vs. Fackner and H.bbard et al. vs. Swoot.—

Covert vs. Henulberger.—Granted. Opinion.

By Judge Lawrence.
Daiy vs. Jacot.—This motion must be denied, with

MARINE COURT-CHAMBERS.

er indorsement on papers.
Brady va Brett.—Costs iaxed at \$162 71.
Hanson va Blanchard; Howard va. Whitney; Hall-ton va. Nicholson.—Judgment for plaintiff on de-

utrer.
Tansig v. Booth.—Bond approved.
Riker vs. Manhattan Issurance Company.—Leave to
erve supplemental answer granted.
Wagener vs. Burna.—E. Jacobs, Esq., appointed Becker vs. Parker; Lang vs. Thomas; Lees vs. Wolf.—Motion granted, Martin vs. Garson.—Defendant discharged under Fourteen Day ack

GENERAL SESSIONS-PART 1.

BATTELL SENT TO STATE PRISON FOR LIFE. On the opening of the court yesterday there was large crowd present, anxious to witness the closing scene in the trial of W. J. Battell, convicted of murder in the second degree for killing Ann Hammar, in Harlem, on the 17th of March last. Among those present were the prisoner's wile and his mother. The prisoner occupied a seat by the side of his counsel, Mr. W. F. Kintzing. He looked well, and displayed his usual stolid indifference. Assistant District Attorney Herring moved for seatence. Upon being interrogated by the Court whether he had anything to say why sentence should not be passed, upon him, the prisoner, through the advice of Mr. Kintzing, said he had nething to say. Recorder Hackett then proceeded to sentence him, saying that he fully approved of the verdict of the jury, and that his escape from a conviction of murder in the first degree was attributable entirely to tampering with the law by the Legislature, he then added that the crime of which the prisoner was convicted was brutal and atroctous, and that he deserved death, but as long as he sat on the bench he did not intend any man should be convicted of murder in the first degree without positive evidence of a deliberate and premeditated design to effect death, which element was wanting in the present case, and on losser degree. He then sentenced him to State Prison for life. Immediately following the sentence the prisoner shoot hands with his counsel, was handcuffed and with a smile upon his countenance left the court room in custody of an officer.

ALLEGED ROBBERY. er Weeks was charged with stealing several hun-Esther Weeks was charged with stealing several hundred dollars' worth of jewelry from Elizabeth Pettingill, of No. 12 Little Jones street. The defendant had been a companion to the complainant, and the latter missed the property shortly after the former left her house to seek employment elsewhera. The defendant was subsequently arrested in Pail River, Mass., and a pin belonging to Mrs. Pettingill was found on her person. The prisoner explained that the pin in question was given to her by Mrs. Pottingill in exchange for a cross, and denied ever having seen the other articles named. The jury found a verdict of not guilty and she was discharged.

John Anderson, alias "Jimmy the Kid," was placed at the bar charged with stealing a gold watch and chain from George W. Mantell on the night of the 5th of April, while he was smoking on the platform of a Third avenue car. The prisoner was subsequently arrested and identified by Mr. Mantell. The prisoner, in his defence, denied being on the car on the night in question, and another witness testified that he was at home at the time the theft was committed. The further hearing of the case was adjourned until this merning. STEALING A GOLD WATCH.

Michael Clancy, who was convicted of burglary on the steamer John W. Garrett, lying at piers 6 and 7 North River, on the night of April 16, when cigars and jellies, valued at \$3,000, the property of John W. Stro-bel, in transit to Baltimore, were stelen, was called up for sentence, and sent to the State Prison for four years and six menta.

GENERAL SESSIONS-PART 2. Belore Judge Gildersleeve BECKIVING STOLEN GOODS.

The trial of Eva Goldman, indicted for receiving tolen goods, was resumed yesterday. It appears

PLEAS AND SENTENCES. Isaac Blumberg, eighteen, of No. 37 East Broadway, pleaded guilty to the charge of having burglariously on tered the store of Harris Goldstein, No. 79 East Broadway, and stolen a number of comba. He was sentenced to two years' imprisonment in the State Prison. Frederick Schmidt, of No. 96 Cherry street, pleaded guilty to the charge of having discharged a pistol at Martin Coleman on the 6th inst. He was sent to the State Prison for two years.

POLICE COURT NOTES. At the Washington Place Police Court yesterday Waiter A. Chapman, a negro nineteen years old, of No. 342 West Thirty-eighth street, was committed in default of \$1,000 bail for snatching a pocketbook containing \$8 from Miss Rebecca Johnson, of No. 425 Sixth avenue, while she was passing the corner of Fifth

taining \$8 from Miss Rebecca Johnson, of No. 425 Sixth avenue, while she was passing the corner of Fifth avenue and Twenty-seventh street, at half-past six o'clock on Wednesday evening.

William Eislin was hold for trial by Justice Duffy for altempting to steal \$10 worth of dry goods from the store of Robert Haydon, No. 484 Tenth avenue. Eislin said he was starving and had to steal or die.

A general raid was made yesterday on the bummers and vagabonds of both sexes who frequent the City Hail, Washington Square and Madison Square parks by Park Officers McGonigle and Dissenberry. Twenty-five of them were sent to Blackwell's Island as vagrants.

At the Essex Market Court yesterday officer McGornott charged George H. Apperman with having stabbed Louis Walter in the side during a drunken quarrel in Chrystie street, on Wednesday night. Apperman was held for trial at the Essex Market Court yesterday for stealing \$12 from the till of Lens Burgduff's store, No. 6 Second avenue.

Jonas Goldschmidt, Daniel Weiner and Julius Faik, on a charge of robbing Miss Feiber, of No. 712 Sixth avenue, of \$500 in currency and trinkets valued at \$500, were held by Justice Morgan, at the Essex Market Court, yesterday for smalled Herman Weigand, of No. 75 Eighth street, for passing on Frederick Macker, No. 50 Fulton street, a lorged check on the German Exchange Bank, No. 246 Bowery, for \$25.

James Johnson, who said he lived in Mangin street, a lorged check on the German Exchange Bank, No. 246 Bowery, to \$25.

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James Johnson, who said he lived in Mangin street, a lorged check on the German Exchange Bank, No. 250 Bank, No. 2

COURT CALENDARS—THIS DAY.

SUPREME COURT—CRAMMERS—Held by Judge Donohoe.—Nos. 62, 116, 118, 124, 133 1, 138, 178, 192, 203, 212, 238, 290, 382, 340, 340, 352, 352, 354, 354, 356, 352, 212, 238, 290, 382, 340, 340, 352, 352, 354, 354, 356, 356, SUPREME COURT—SPECIAL THER—Held by Judge Lawrence.—Law sind fact—Nos. 97, 200, 301, 223, 387, 214, 420, 273, 279, 173, 174, 587, 34, 542, 500, 615, 556, 537, 591, 309, 250, 272, 230, 131.

SUPREME COURT—CHECUTT—PART 1—Held by Judge Westbrook.—Short causes—Nos. 2683, 13611, 2771, 2585, 2947, 2679, 2592, 1397, 2005, 2007, 2525, 3188, 3189, 3059, 3161, 3215, 3211, 3067, 2351, 2815, 3133, Part 2—Held by Judge Van Vorat.—Short causes—Nos. 1756, 2584, 3684, 2972, 2630, 2468, 2990, 2369, 2538, 15041, 5215, 2532, 2771, 2783, 2700, 2787, 2812, 2723, 3210, 2575, 2832, 2700, 2782, 2771, 2783, 2700, 2787, 2897, 3111, 2873, 3225, 2829, 3147, 3129, 2611, 3113, 2990.

SUPREMOR COURT—SPECIAL THER—Held by Judge Sedgwick.—Case on—No. 41. No day catendar.

SUPREMOR COURT—THIAL THER.—Part 1—Held by Judge Sentord.—Short causes—Nos. 2611, 1517, 1336, 1458, 2099, 2139, 2159, 2109, 2147, 3129, 2010, 2200, Part 2—Held by Judge Speir.—No. 49, calendar.

COMMON PLEAS—TRIAL THER—Part 1—Held by Judge Robinson.—Nos. 241, 2007, 1072, 1293, 2185, 2196, 1467, 2209, 1764, 2193, 2112, 1859, 2168, 2207, 1369, 2077, 208 COURT CALENDARS-THIS DAY.

1670, 1419.
COMMON PLRAS—EQUITY TERM—Heid by Judge Van Hoosen.—Case on—No. 24. No day calendar.
MARINE COURT—FRIAL TERM—THE L-Heid by Chief Justice Shea.—Noa. 7074, 4174, 4176, 4177, 3041, 4290, 4669, 3877, 7139, 2375, 7719, 7854, 7708, 3303, 3002. Part 2—Heid by Judge Sherman.—Nos 4246, 4281, 6634, 3840, 7827, 6705, 4195, 5341, 7621, 1080, 4048, 4061, 6410, 7628, 7020, Part 3—Held by Judge Sinnott.—Nos.

COURT OF APPEALS.

No. 151. Newton vs. Porter.—Upon motion and con-sent cause goes over the term.

No. 58. Whitmore vs. The Mayor, &c., of New York.—Argued by D. J. Dean for appellant; James H. Fowler for respondent. Fowler for respondent.

No. 231. Davits vs. The Elmira Nobles Manufacturing Company.—Argued by E. P. Hart for appellant; S. Bexter for respondent.

No. 208. Smith vs. Scholtz.—Argued by William Fullerton and George F. Comstock for appellant, and by Douglass Campbell and E. W. Paige for respondent. Case still on.

Adjourned.

The calendar for Friday, June 16, 1876, is as follows Nos. 147, 206, 217, 225, 244, 126, 246 and 246.

ERRONEOUS QUOTATIONS.

BALTIMORE, Md., June 15, 1876. ne time ago Messra. William Fisher & Sons, bar rs, sold to Sterling, Abern & Co. \$50,000 in gold basing the price on a quotation furnished by the indicator of the Gold and Stock Company. This quotation cator of the Gold and Stock Company. This quotatic subsequently proved to be erroneous, which caused loss to the Messre. Fisher of \$67. The firm brough suit for the amount before a magistrate, who decided their favor. The Gold and Stock Company appealed the City Court, and Judge Pinkney yesterday reverse the judgment of the magistrate, holding that the Gol and Stock Company were not responsible for the accuracy of the quotations, as they had not guarantee them.

BOARD OF ALDERMEN.

There were but few members of the Board pro esterday, the only republican being Mr. Cudlipp. etters were received from the Mayor vetoing an ordinance regulating the rate of speed at which horses should be driven on the upper end of the island; and should be driven on the upper end of the islund; and also a resolution giving permission to present owners of truit and other sidewalk stands, which was laid over. Alderman Gross offered a resolution, which was referred to the Committee on Parks, requesting the President of the Park Commission to inform this body whether the statement is true that Mr. Fred. Law Olmsted, employed by the department as a landscape architect at an annual salary of \$8,500, is engaged by other cities and States in a similar capacity, requiring his repeated absence from his post of duty and neglect of the same; and also whether at present he is, arrong others, in the employ of the Canadian government or one of its municipalities, thus clearly forietting, under the laws of this State and city, his position is the Department of Parks and the emoluments appertaining thereto.

An ordinance was passed permitting contractors, in the event of engineers and inspectors in the employ of the Public Works Department reporting that the work done by them for the city is not in accordance with the specifications, to appear before the Commissioner and make explanation.

MUNICIPAL NOTES.

MUNICIPAL NOTES.

For want of the requisite number of votes no general

orders were passed by the Aldermen yesterday.
Algernon S. Sullivan is one of the few strong adhe of Tilden within Tammany Hall. He says that Tilden

of Tilden within Tammany Hall. He says that Tilden should be nominated to insure New York, but that Hancock would sweep the country North and South, in his opinion, and send to the right about any candidate that may be named at Cincinnati.

It is heartrending to witness the forlorn looks of the honest tollers who daily besiege the Public Works Department for employment when there are no tickets to give out and no prospect of any important public work being undertaken to relieve them. No wonder nen are criven to crime when sick and starving children cry for bread, as do those of many of these workmen daily.

daily.

The Board of Aldermon will hold a special meeting on Monday next to transact routine business.

Comptroller Green paid yesterday to August Belmont & Co. \$383,820 83 for sterling exchange to pay gold interest coupons on consolidated stock of the city and county of New York, due in London July 1.

MASTER CAR BUILDERS.

The closing session of the tenth annual convention of the Muster Car Builders' Association was held yesterday in the Grand Central Hotel, Mr. Leander Geary, President, in the chair. The business of the session was the further consideration of the reports of com-mittees on draw-bars, buffers, couplings, &c. Every-detail of car workmaship tending to the better pro-tection of the lives of passengers, the increase of capacity of passenger and froight cars for miteage by reason of lightness and durability were ably discussed and the regular reports ordered on file. After the close of the Convention a number of the members went to Philadelphia to visit the Centennial Exposition.

REAL ESTATE.

Only two auctioneers held sales at the Exchar yesterday, a majority of the property advertised to be

R. V. Harnett sold, by order of the executor, two
three story brick houses, with lots each 25x98.9, on
The next paper read was the joint answer of Cornethree story brick houses, with lots each 25x98.9, on East Twouty-ninth street, 235 feet east of Third avenue, for \$12,000, to P. N. Carling. Also a three story frame house, with lot 25x100.11, No. 122 East 125th street, south side, 115 feet west of Lixington avenue, for \$4,900, to A. Van Tassell.

E. H. Ludlow & Co. sold, by order of the executor, a two story frame house, with plot 200x150, on west side of Washington avenue, 100 feet south of Rieventh street, Tremont, Twenty-fourth ward, for \$6,300, to W. A. Emery. Also a plot, \$45x52x23.9, on east side of same street, 152 3 feet south of Taylor street, for \$725, to Mr. Finn.

20th st., s. s., 110.5 H. c. of Mn av., 10.5291.11; Alexander Clinton and others to A. W. Bogart, River av. (14th ward), 1); acres: H. L. Atherton to Janes N. Wells (18 st., s. 70 ft. a. of Concord av., 41x28.03; (18) ward); Clara Decker and husband to F. X. Fischer. 4,000 E. Barnes.

Sth av. c. s., 40.10 h. n. of 85th st., 22x100; S. Holmes and wife to J. Roach.

Slat st. s. s., 325 ft. e. of 2d av., 25x102.2; George Hutson to C. H. Ryno

Slat st. s. s., 850 ft. e. of 2d av., 50x102.2; same to C. Hadden. Haiden. S. a., 350 ft. c. of 2d av., 50x102.2, name to C. Haiden. S. a., 500 ft. c. of 10th av., 25x102.4; Muthai Life Insurance Company to J. G. Peters. av. A. a., 50.5 ft., a. of 117th at., 50.5gbe; also It has the John H. Waterhouse. S. 100 ft. C. H. States, n. a., 200 ft. c. of 9th av., 25x200.10 to 52d st.; i. H. Sandtord to James Gillies. Broadway n. w. corner of Clinton blace, 20.6x114.4; Wm. Schier to John Danieli. doth at. (No. 119 East; George Samuels and wife to James B. Eddy. 18th at. a., 278 ft. s. a. 26,000 25,000 Sign 8 L (No. 119 East); George Samuels and wile to Jame B. Eddy 78.0 it. c. of Sth av., 21.3x92; S. Wilkie and effe to M. Smith.

63st st., s. 5. 700 ft. c. of 5th av., 125x100.5; L. E. Wood and wife to F. Willow.

10wth st., s. s., 145 ft. w. of 3d av., 25x100.11; E. Samdford (referee) to John H. liker.

Ludlow st., s. 25 ft. m. of Stanton st., 80x20; J. A. Gross referee) to W. Z. Schwetzke.

60th st., s. s., 25 ft. m. of Stanton st., 80x20; J. K. Herry (referee) to W. Z. Schwetzke.

Chryste st., No. 142, 25x100; S. D. Gale (referee) to G. F. Johnson. 70,000 1,500

10,000 48th st., West (No. 112), 5 years; John H. Watson to dith et. West (No. 112), 5 years; John H. Watson to W. Fitsgerald.

Murphy, Thomas H., and others to Deborah L. Gaffner, n. s. of Stanton st., e. of Blowery; 1 year.

Stormer, n. s. of Stanton st., e. of Blowery; 1 year.

Stormer, n. s. of Stanton st., e. of Blowery; 1 year.

Stormer, n. of Stanton st., e. of Blowery; 1 year.

Stormer, n. of Stanton st., e. of Blowery; 1 year.

Stormer, n. of Stanton st., e. of Stanton st., e.

McCebill, Thomas J. and wife, to Edward Winstow.

e. 36 av. c. of Mat et.; 1 years.

e. 36 av. c. of Mat et.; 1 years.

s. a. 66th st., c. of 10th av.; 1 year.

Schnegler Insurance Company to Geman Savings

Bank, c. a. of Sd. av. near St. d. st. 1 year.

Saunier, Feter and wife, to Robort M. Mrebeigh, a.

c. of 6th st., c. of 11th av.; 1 year.

gdine, Feter, to Emigrant Indestrial Savings Bank,

v. a. of 5tata, c. of 8th av.; 1 year.

Wilson, Robort and wife, to Robort av. Grosby, a. s. of

6td st., w. of Madison ev.; 1 year. 5,000 1,000

SURROGATE'S DECISION RESERVED.

the Probate of the Will.

The first legal encounter between the alleged heirs and next of kin of the late Alexander T. Stewart and resterday before Surrogate Calvin. It was on a motion on behalf of the contestants to have probate to the will revoked, and to allow them to come in and prove their claims to blood relationship to deceased and their claims on his large estate. The petitioner in the case, Thomas Bailey, is a citizen of Brooklyn, but joined with him in the contest are Mary Deans, Ann Jane Bailey, Augustus Turney, George W. Turney, Samuel Turney, James Turney, William H. Turney, Catherine E. Turney and Lucretia M. Turney.

There was hardly standing room in the court during

the proceedings, the crowd remaining to the close not-withstanding the overpowering heat under which all sweltered. The opening of the legal tournament was delayed by the calling of the calendar. The proceed-ings were generally confined to argument of counsel, and nothing was developed with regard to the claims

Messrs. William O. Bartlett, Elihu Root and William D. Booth appeared as counsel for James Bailey and his brothers and sisters, and for the Turney family, on whose application the order to show cause why the probate should not be vacate i was granted by the Sur-

Ex-Judge Henry E. Davies, Henry ff. Ander William A. Beach and Henry L. Clinton appeared a counsel for Mrs. Stewart and Judge Hilton.

THE PERSONAL ESTATE QUESTION The case being called on, ex-Judge H. E. Davies addressing the Court, said he appeared for Cornelia M. towart, and asked that the petition, so far as the per sonal estate of Mr. Stewart is concerned, be denied. The will has been proved and has been probated. It is on the in this office. There is nothing in the petition of James Bailey to show want of competency The fourth clause only goes to assert that the will has been made under undue influences. The statute slows one year for allegations to be filed for vacating the will. The petitioner has no right to challenge on the perthis will. Judge Davies was about to speak on this point when Mr. Bartlett conceded that point of the

case as a point of law on the part of the contestants.

Judge Davies then asked for a separate order of denial with regard to the personal estate, and after some argument the order was granted, but the Surrogate said that the signing thereof should be postponed until the close of the day.

A motion was then made by counsel for the will that the application be dismissed, on the ground that the will having been proved as a will of real estate the Court had no authority to open the probate, contending that the opponents to the will have not made a prima facie case upon their papers whereby the probate should be opened; that under the act of 1870 no authority was given to the Surrogate to set aside his cortilicate made upon the will admitting it to probate. The potitioner only alleges that the execution of the will was obtained by under influence. The petitioner, counsel maintained, could gain nothing, not one foot of the property, if ever it should happen that the probate should be set aside.

Mr. Beach said they should insist that the Court had no jurisdiction to set aside the probate as one of real estate, and that counsel should proceed with the argument.

The Surrogate observed that before he should decide

ment.

The Surrogate observed that before he should decide upon so important a question he must have time to consider the matter.

Counsel then proceeded to read the papers in the case—the answers of Mrs. Stewart, Judge Hilton and Mr. Libby.

THE JOINT ANWER.

The next paper read was the joint answer of Cornelia M. Stewart, executive, and Honry Hilton and William Libby, executors, in which they are that the said Cornelia M. Stewart was married to the said deceased, ac.; that upon information and belief they deny that the said petitioner, or any other persons mentioned in the first clause of said petition, or any or either of them, are collateral reintives of the full blood, or are neitre-at-law or next of kin of the said Alexander T. Stewart, deceased. Respondents further aver that the will and the codicils thereto were duly proved before the Surrogate on the 13th of April, 1876; that the said will and codicils were duly admitted to probate by said Surrocate as a will of real and personal estate, and that letters testamentary were duly lasted by said Surrogate to the persons hamed in said will being these respondents as executrix and executors thereof, and who thereupon duly qualified as such and entered upon the duties of their office, &c. That the application for probate of said will and codicils was made publicly and openly, and they deny that the proofs thereof were made privately or secretly, or in groat at the time of his death was extensively engaged in microantile affairs and in the improvements of large amounts of real estate, and had a very large number of persons in his employment; that it was easential to save said business from interruption and said estate from loss; that no cessation in the management of its affairs should take place, and insemuch as the Surrogate could not attend to said probate on the following day the proofs thereof were made on the evening of the funeral of the testator for the convenience of his widow, one of these respondents; that these respondents have always been informed by said Alexander T. Stewart that he had no relative or next of kin living, and they had never been informed, or had any intimation or suspicion, that the said deceased, and deny that the same were executed, or were procured from the said Ale

out of and from the personal estate of the said Alexaneer T. Stewart, decemed, and have received due and
effectual discharges from said several legatees of and
from the same.

***RE HILTON'S ANSWER.**

In his answer for himself Mr. Hilton sets forth that
he knew the decemed for over twenty years prior to his
death; that his (Stewart's) last will and testarent was
drawn by him (Mr. Hilton) under directions received
from the decemed; that he was in the full
vigor of his intellect and memory, and at
the time of receiving such directions no other person
than both were present. "I did not then," continued
Mr. Hilton, "or at any time influence or attempt to influence him in respect thereto, nor did I see or know
of any other person doing so. Until after his death I
never communicated the contents of the will or codicits to his wise. Cornelia M. Stewart, or to any other
person. For very many years past I have frequently
heard him remark that he did not know of the existence of a single blood relative, and it has been, over
and again, during the name period, published in the
newspapers of this country and Europe, when writing
of him, that he had

***XOKNOW BLOOD RELATIVE LIVING.**

At the time of the death of Mr. Stewart I had, under
his direction, general charge of his affairs, particularly those affecting his individual property,
and was acquisited with his various plans,
contracts and engagements connected therewith. In
general terms these involved the construction and
completion of an addition to the Grand Union Hotel
and ground and property at Saratoga Springs and the
roturnishing and resiting of acversa hundred rooms in
the old portion of the hotel. The expenditure under this
head will, as I believe, exceed \$350,000, this greater
part of which has been already paid or incurred. These
plans also involved the construction of water pures
pass works and railway machine shops at Garden Cny,
Loog Island, and the laying of about ten miles of gas
and water pipes and the machinery connected therewith. The expe

Argument on Motion to Revoke

gives and devises his entire residuary real and personal estate to his wite, the said Cornelia M. Stewart.

Mr. Libbey, of the present firm of A. T. Stewart & Co., siso made an affidavit, which was read by Mr. Anderson. It was substantially similar to those of Mrs. Stewart & T. Stewart & Co. It was not been a find a property of the testator was mentally capable of making a will, that no undue influence had been practised, and that from the nature of the business of A. T. Stewart & Co. It was necessary to have the will admitted to probate as soon as the forms of law would admit.

Mr. Henry I. Chinton their entered on his argument on behalf of the widow and legatest, and against the jurisdiction of the Surrogate, claiming that the contest-ants would lose none of their rights by sustaining the probate of the will, pointing out also the utier impossibility of undue influence having been exercised upon the deceased in the drawing up of his will and his disposition of the property. He argued that Judge Hilton could have had no reason for exercising undue influence, as he was not benefied in any way by the real estate, which was all devised to the widow, and that Mr. Hilton could not possibly use any undue influence to prevent the testator from leaving property to relatives of whose existence he knew nothing. With the papers believe the Court, he believed that the petition should be dismissed—first, on the ground that the Court has no jurisdiction, and second, that as a matter of discretion it was a case that the Court should take no cognizance of.

Mr. Elihu B. Root, on behalf of the petitioners.

no jurisdiction, and second, that as a matter of discretion it was a case that the Court should take no cognizance of.

Mr. Eithu B. Root, on behalf of the petitioners, argued that an heir-at-law and by the blood had been deprived of his right as such by an adjudication on a paper purporting to be A. T. Stewart's will and codicils; that such adjudication had been made in a private house on the evening of the day of Alexander T. Stewart's funeral, and without even informal notice of such a proceeding; that the petitioner had then had no opportunity to be heard in proof of his rights. He asserted that no effort had been made on the part of those concerned in the will to find it any heirs-at-law existed; that no citations were issued.

The Surrogate said that evidence and proof were before the Court that there were no heirs in existence, and that therefore to issue citations to "no persons in existence" would be a work of supercrogation.

Mr. Root contended that heirs were in existence. The Surrègate answered that such an averment has yot to be proved, and that it was not correct to argue on the basis of an assertion which had not been proven to be a fact.

Mr. Root continued his pregument he claiming that

Mr. Root continued his argument by claiming that the Surrogate had not only jurisdiction under the law to revoke his decision, but it was his duty to revoke it when it is shown that the exparts evidence before him was incorrect.

when it is a was incorrect.

The Surrogate said the probate remained in full force until the final determination of the case, and it was necessary on the part of the contestants to furnish their proofs of the allegations intended to set saide the pro-

proofs of the allegations intended to set aside the probute.

Mr. Root continued arguing that the application was not on the matter of discretion, but as a demand for rights of which the petitioner had been deprived. The counsel then offered various authorities to support his position, and as the decision of the Surrogate had been given on as parks evidence, the petitioner came into court to ask that the decision be revoked and sot aside. The counsel then argued that the gentlemen on the other side had asserted that in view of the exigences of the case, the interests of the property being endangered, it was necessary that the will and codicils should be proved as soon as the law would allow, but that was no reason why the papers should be admitted in defiance of law. The petitioner, therefore, asked his rights, not the discretion of the Surrogate.

Mr. Beach followed in a lengthy argument in support of the probate and against its revocation. In the course of the address he made allusion to the allegation that the case was got up for the purpose of blackmailing.

Mr. Hartlett at once erose and said:—There is noth-

Mr. Bartlett at once arose and said:—There is noth

Mr. Hartlett at once arose and said:—There is nothing of compromise in this. I repediate and disclaim the charge here, now and forever. The only compromise which will ever be made by me or with my consent will be the decision that the will was invalid. Henry Hilton has not money enough to make a compromise, with my consent, of this amount. I am retained for that and nothing else, and there shall be no compromise and no conditions other than that.

Mr. Heach said if counsel would go with him he would prove to him that there had been overtures for compromise and reterated that the case was got up for a compromise and to levy blackmail.

After argument of counsel the Surrogate took the papers, reserving his decision.

DESTRUCTIVE FIRES.

The Brooklyn Fire Department in the Western Dis trict was kept busy yesterday forenoon. Shortly after seven o'clock a fire broke out in the De La Bustie Glass Works, on Delevan street, near Van Brunt street occasioned by a leak in an oil tank, from which the or flames was so rapid that two workmen, who were it the boiler room, had scarcely time to escape. When the engines arrived the fire enveloped the building. The smoke was very dense and attracted attention toward that vicinity for a circuit of several miles around. The actual loss of A de La Bustie is \$30,000 on steek, tools and machinery. The loss on the building, which was a two story and basement atructure, built of brick, covering an aroa of ground 180x100, is \$25,000. Mr. A. de La Bustie is insured in the following companies:—Paterson, of Paterson, N. J., \$2,500; Home, of Columbia, Ohio, \$2,500; New Hampshire, of Maine. \$2,500; Franklin, of Indanapolits, Ind., \$1,250; Manufacturers', of Newark, \$1,250; Lancashire, of Manchester, England, \$2,500, Rechester German, of Rochester, \$2,500; Franklin, of Philadelphia, \$2,500. Etna. of Hartford, Conn., \$2,000. Total, \$10,500.

August Thiery & Co. are insured in the Lancaster, Pennsylvania, ior \$2,500; Phonix, of Brooklyn, \$2,500; Manhattan, of New York, \$2,500; Clay, of Keniucky, \$2,500. Total, \$10,000. the boiler room, had scarcely time to escape. When

BURNING OF WORKSHOPS. About ten minutes before eleven o'clock yesterday morning the occupants of the houses and pedestrians in the vicinity of the Fulton ferry. Bro startled by a loud report, caused by an explosion, and a moment later a volume of flame and smoke shot up from a building in the rear of Nos. 32 and 34 Water from a building in the rear of Nos. 32 and 34 Water street. The alarm was speedily given from the City Hall tower and the fire department was on the ground with its wonted promptitude. The structure in which the explosion occurred was of frame and was used as a chemical manufactory, by Messrs. Robinson & Hubble. The fiames spread with great rapidity, destroying the building, involving a loss of \$500, upon which there is no insurance. An adjoining building, occupied by Abraham Iusiec, as a machine shop, was burned, together with its contents. Loss, \$1,000; no insurance. A two story frame structure, occupied as a boat building entablishment, and owned by Messra. Hewry & Hall, No. 34 Water street, was damaged to the excent of \$1,000; no insurance. The jute picking establishment of Mr. Hardessite, adjoining, was damaged by fire to the amount of \$1,000; no insurance.

The curpet liming factory of M. Bailey & Sons, a frame building in the rear of Nos. 32 and 34 Water street, was destroyed together with its machinery and atock. Loss, \$3,000; not insured.

During the fire Mr. Abraham Insiee was struck by a piece of iron failing from a building and severely injured, being cut on the forchead. He was removed to his residence, No. 326 Park avenue.

John Hieley, cuginerr in Iusice's machine shop, testified before Fire Marshal Koady, who commenced an investigation in the cause of the fire yesterday afternoon, that the explosion was caused in the chemical works by an attempt to experiment in making turpentine and machine oil out of rosa. He is positive that the explosion and the fire originated there. One tank was slightly injured by the explosion. A new patent motor bur, the property of H. C. Buil, was damaged by fire to the extent of \$200. The buildings destroyed were owned by D. S. Draper, of Great Barrington, Mass.

A fire broke out on Thursday morning in a one story frame house on Lafayette avenue, Castleton, owned and occupied by Mr. Cornelius Fariey. The building was occupied by Mr. Cornelius Farley. The building was entirely destroyed, and the flames communicated with a two story fraine house, also owned by Mr. Farley, and occupied by Cornelius Brandingnam and Christopher Taylor, which was also destroyed. The two buildings were valued at \$3,330; insured for \$1,000 cach in the Ætna. Taylor's loss on furniture was \$200; no insurance. Farley's loss on furniture was slight; insured for \$200.

INCENDIARY FIRE.

An incendiary fire was started on Wednesday morning in the large chemical works at Rossville, which were partly destroyed. The building was of brick and owned and occupied by James Tully. It was valued at \$20,000, and contained a large amount of stock, which was saved. Loss and insurance not ascertained.

CHANGES AT SING SING PRISON.

Another fifty of the most objectionable convicts in Sing Sing Prison were drafted from that institution and despatched to Chinton Prison on Wednesday evening. Among them was a mulatto of huge preportions, known in the prison as "Big Josh," and who on the day named savagely assaulted the foreman of the saddle shop, and was about to finish him with a bar of iron whom one of the known in the same of the known as the same of t die shop, and was about to finish him with a ber of iron when one of the keepers came to the rescue of the prostrate man. In view of the recent daring scuapes, on locomotives and otherwise, as well as the probable apprehension of another revolt among the jailbirds, it has been deemed prudent to double all the guards around the prison. This is a precaution adopted only in extreme cases, and it may is this instance be in part accounted for by the circumstance of a change in the office of principal keeper—the official who has had over twelve years' experience in the prison baving been removed, and a limit from Clipton appointed in his stead. Another convict, with citizens' cothers or, managed to clude the vigilance of the guards and make his way outside of the prison grounds while attempting to escape on Wednesday. The man, who was apecully missed, was pursued and captured before he had got very far on the road to liberty.

ALLEGED SNEAK THIEF ARRESTED.

Officer May of the Eighteenth precinct brought to the

THE GREAT POLICE OUTRAGE.

TRIAL OF OFFICER RINGLER YESTERDAY-EVI-DENCE GIVEN BEFORE THE POLICE COMMIS-

The trial of Officer Frederick Ringler, of the Fourth

precinct, who on the night of the 3d just, so brutally clubbed Mrs. Catharine O'Donnel', of No. 434 Pearl street, her son Hugh and her daughter Sarah, and also Michael Lawler, an attaché of the Sheriff's office, came up be fore the Board of Police Communicationers vesterday. The facts in the case were published in the Hanalo at the time of its occurrence, and created no little public comment. Ringler is now under \$1,500 ball to await the action of the Grand Jury. Auticipating that by the time of Ringler's trial in the Court of General Sea sions the wounds of the injured parties would be healed up their counsel had their pictures taken, These photographs will be used as evidence against Ringler in his trial at the Criminal Court. At the Cencourt room, accompanied by Counsellor Cowan. Ring-ler was defended by Captain Williams. The tirst witness examined was Mrs. O'Donnell, who testified that on the night in question she was in a grocery store near her dwelling purchasing some milk, when she heard a noise, and on going into the street saw her son lying prestrate on the sidewalk, and Ringler standing over him with uplifted club; she said "Don't hit him, no is dying now;" Ringler picked her son up and dragged him toward the station; while the last stages of consumption; she put up her arm to save him and was struck across the hand; Ringier

in the last stages of consumption; she put up her arm to save him and was struck across the hand; Ringier then struck her three times on the head, leiling her senseloss to the ground; sne was carried into the station house, hat her wounds dressed by a physician, and was then locked up all night on a charge of disorderly conduct.

Hugh O'Donneil, aged 17, was next called, and testined that white standing outside his door with a couple of other boys Ringier came up and said, "Get away from here;" he answered, "I live here;" being crippled he could not move away very last, and Ringier struck him with his ciub, knocking nim down and nearly preceptiating him into a deep cellar; he then said, "I want you to arrest me if I have done anything, but don't club me;" Ringier then arrested him. On the way to the station Ringier clubbed his mother, assier and Mr. Lawler. In this respect he corroborated the testimony of his mother in the fulicat degree.

Mr. Lawler, on being called, destified that hearing a noise and seeing young O'Donneil in the custody of Ringier, as a deputy therif he volunteered his servicer to assist Ringier, and the latter surrendered the boy into his custody; when Ringier clubbed Mrs. O'Donneil in front of the station house has ali, "Stop that don't club that woman; we can take them in;" Ringier suddenly turned on him and struck him on the ness breaking it; Ringier was then about striking Mrs. O'Donneil, who was lying bleeding and senseless in this street, when Capitali Williams tushed out of the station house saying, "Hold on there, Ringier, stop that clubing;" the witness then carried Mrs. O'Donneil into the station house and Capitali Williams told him to go to a surgeon's and have his wounds dressed; he did go, and on the following day made a charge against Ringies before Justice Murray at the Tombs.

Sarah O'Donneil, aged fifteen, corroborated the testimony shaken in the slightest degree. At the request of her counse in the slightest degree. At the request of her counse in the slightest degree. At

CAPTAIN WILLIAMS AGAIN.

HIS ARBITRARY ARREST OF A POOR OYSTER-

MAN-A SCENE IN THE TOMBS COURT. For the past eleven years John Coffee, an old Irishman, living at No. 123 Roosevelt street, has kept a little wooden shanty, in which he sells oysters, in the square at Roosevelt and South streets. Before he put up the shanty the centre of the square used to be oc-cupled by old boats and chain cables. Coffee has a wife and large family to maintain, and his only means of support was the business he carried on in the shanty. His obliging disposition made him a favorite with the men be furnished dinner. A month ago ceived the idea of ousting poor old Coffee. Coffee if he had a permit, and on being answered in the negative told the old mun that if he did not close up his stand he would arrest him. The case was brought to the attention of some influential gentlemen, who had a resolution passed by the Board of Aliermen giving Coffee permission to have his stand in the square. On Wednesday Mr. Coffee reopened his attand, and was arrested by Captain Williams. He explained that he had a permit from the Board of Aiderman, but Captain Williams would listen to him, and locked him up. When Mr. Co was brought telore Justice Wandell, yesterday ming, he produced his permit. Captain Williams asset it was a forgery. A certificate from Mr. Tuomey, Cl of the Board of Aldermen, vonching for its genus. it was a forgery. A certificate from Mr. Tuomey, Cie of the Board of Aldermen, vouching for its genuin ness, was then produced, and this was also branded a lorgery by Captain Williams. Judge Wandell, ho ever, gnew Mr. Tuomey's writing, and said, "It is go uine. I cannot go behind the action of the Mayor at Board of Aldermen. I damiss the complaint."

Captain Williams said:—"I don't care a straw about he Mayor and Aldermen. I now charge him with violation of the health code. His place is a publishence."

DISINFECTING EXPERIMENTS.

Experiments were made yesterday on Blackwell's leiand with a new disinfectant called the Girondin. A party, consisting of Commissioners Brennan and Cox, Mr. Kemeys, Dr. James R. Wood, Dr. Austin Flint, Jr., party, consisting of Commissioners Brennan and Cox, Mr. Kenneys, Dr. James R. Wood, Dr. Austin Flint, Jr., Dr. Janeway, Dr. Brehes, Tombs physician; Dr. D. H. Kitchen, Dr. G. W. Van Loon, Dr. Silver, Dr. Isham, Dr. Moreau Morris, representatives of the morning newspapers and other gentlemen assembled in the Charity Hospital. After a short explanation of the qualities of the disinfectant by Mr. James Meyer, Jr., the party was brought to an empty ward of the third story. This ward had been filled with aniphuretted hydrogen gas. The party were excepted inside to note the effect, and the effect on their offictories was so strong that some of them were glad to retire. The disinfecting apparatus was then got is order, and after it had completely sprinkled the room with the disinfectant the Investigating Committee was asked to enter again. They walked around the rooms muffed of the air, and expressed themselves as perfectly satisfied with the result of the experiment. It was then proposed to put the invention to even a harder test. The body of a man who was drowned, and which had been in the water ten days, was laying in the dead house on the east side of the likand. This body was forty-eight hours out of the water, and decomposition had set in. When the party reached the dead house the stench was plainly perceptible, even on the outside, though the doors of the building were closed. Several members of the party ventured in, but they retired in quick order. The disminerant was then applied, the room was thoroughly sprinkled with it and the body out open and a quantity of the fluid poured into it. Within the minutes all entered into the dead house with impunity and found but a very slight ood existing.

The Grondin disinfectant in a solution of metallic alternative too late. He seemed satisfied, however, with the experience of the other gentiemes who had witnessed them.

THE DOWDELL TRAGEDY.

James Dow-lett, the Englishman who, in a fit of incan with an axe, and afterword attempted to commis sui-cide by cutting his throat, is reported by the Bellevus Hospital authorities to be improving. The Coroner has therefore determined to hold an inquest and has fixed the date for next Monday.

A STOLEN WATCH.

William Collins, of No. 75 Carmine street, was arrested yesterday while attempting to pawn a gold watch that had been stolen. Subsequently the police arrested Michael Gleeson, of No. 50 Vestry street, who said he obtained the watch from a boy on Desurcesses attent and gave it to Collins to pawn. He was locked up and Collins was discharged. The watch was stolen from a man named Walker, and is valued at \$150.

CARL SCHURZ'S BEREAVEMENT.

The remains of the wife of Carl Schurz, who recently